

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

United States of America,)	
)	
Plaintiff)	
)	
VS.)	CASE NO. 3:16-CR-00254
)	
David D. Klepadlo,)	
)	
Defendant)	
)	
)	

TRANSCRIPT OF PROCEEDINGS - GUILTY PLEA
BEFORE THE HONORABLE A. RICHARD CAPUTO
WEDNESDAY, DECEMBER 19, 2018 AT 11:00 A.M.
WILKES-BARRE, PENNSYLVANIA

FOR THE PLAINTIFF:

Michelle Olshefski, AUSA
U.S. Attorney's Office
P.O. Box 309
235 North Washington Avenue
Scranton, PA 18501

FOR THE DEFENDANT:

Mark B. Sheppard, Esq.
Klehr Harrison Harvey Branzburg, LLP
1835 Market Street
Suite 1400
Philadelphia, PA 19103-7505

DIANA GILBRIDE, RMR, FCRR
FEDERAL OFFICIAL COURT REPORTER
P.O. BOX G
SCRANTON, PA 18501-0090

(11:17 a.m., convene.)

MS. OLSHEFSKI: Your Honor, this is the matter of the United States of America v. David D. Klepadlo and David D. Klepadlo and Associates, Incorporated. The Docket Number is 3-16-CR-254. The defendant is before the Court and prepared to change his previously entered not guilty plea to a plea of guilty to the counts that are outlined in the written plea agreement, and we're ready to proceed, your Honor.

THE COURT: Mr. Klepadlo.

DEFT. KLEPADLO: Klepadlo.

THE COURT: Klepadlo. You understand what's happening here today?

DEFT. KLEPADLO: Yes, I do, sir.

THE COURT: All right. And I have to be satisfied that your plea is voluntary and you understand what it means to plead guilty. So I need to ask you some questions to be satisfied that that's the case. And I'm going to place you under oath, so please raise your right hand.

DEFENDANT DAVID D. KLEPADLO,
having been duly sworn or affirmed according to law, testified as follows:

THE COURT: And I take it that you're answering these questions on behalf of yourself, as well as the entity?

DEFT. KLEPADLO: Yes, sir.

THE COURT: All right. First of all, tell us your

1 name.

2 DEFT. KLEPADLO: David D. Klepadlo.

3 THE COURT: How old are you?

4 DEFT. KLEPADLO: I'm 63.

5 THE COURT: What's the extent of your education?

6 DEFT. KLEPADLO: I have a Bachelor of Science degree
7 from Penn State University in environmental engineering. I
8 have four professional licenses in the States of Pennsylvania,
9 New York, New Jersey, and Arizona for professional engineering.

10 THE COURT: All right. The next couple of questions
11 I'm asking you, please understand, they're only to do with the
12 requirement that I be sure that your mind is clear and you can
13 make decisions about what's right for you. Have you recently
14 been treated for any mental illness or any kind of addiction?

15 DEFT. KLEPADLO: No, sir.

16 THE COURT: And are you currently under the influence
17 of any medicine or drug or alcohol?

18 DEFT. KLEPADLO: No, sir.

19 THE COURT: Your mind is clear and you can make
20 decisions about what's good for you?

21 DEFT. KLEPADLO: Yes, sir.

22 THE COURT: All right. You did receive a copy of the
23 indictment?

24 DEFT. KLEPADLO: Yes, sir.

25 THE COURT: And you had an opportunity to review it

1 with Mr. Sheppard?

2 DEFT. KLEPADLO: Yes, sir.

3 THE COURT: He answered all the questions you had
4 about it?

5 DEFT. KLEPADLO: Yes, sir.

6 THE COURT: And you're satisfied with his advice and
7 representation?

8 DEFT. KLEPADLO: Yes, sir.

9 THE COURT: I take it your willingness to plead
10 guilty in this case is at least in part due to the fact that
11 you reached a plea agreement with the government?

12 DEFT. KLEPADLO: Yes, sir.

13 THE COURT: And did you have an opportunity to read
14 and discuss the plea agreement with Mr. Sheppard before you
15 signed it?

16 DEFT. KLEPADLO: Yes, sir.

17 THE COURT: And does the plea agreement contain the
18 complete understanding between you and the government?

19 DEFT. KLEPADLO: Yes, sir.

20 THE COURT: And you do understand the terms of the
21 plea agreement?

22 DEFT. KLEPADLO: Yes, sir.

23 THE COURT: Has anybody made any other or different
24 promise to you of any kind in an effort to get you to plead
25 guilty in this case?

1 DEFT. KLEPADLO: No, sir.

2 THE COURT: You do understand that the terms of the
3 plea agreement are simply recommendations to me. I can reject
4 those recommendations without allowing you to withdraw your
5 plea of guilty. And I can impose a sentence that may be more
6 severe than one you anticipated?

7 DEFT. KLEPADLO: Yes, sir.

8 THE COURT: Has anyone attempted in any way to force
9 you to plead guilty in this case?

10 DEFT. KLEPADLO: No, sir.

11 THE COURT: And are you pleading guilty of your own
12 free will because you are guilty?

13 DEFT. KLEPADLO: Yes, sir.

14 THE COURT: You should understand that the offenses
15 to which you are pleading guilty are felonies. And should I
16 accept your plea you will be adjudged guilty of those offenses.
17 And that adjudication may deprive you of valuable civil rights,
18 such as the right to vote, the right to serve on a jury, the
19 right to hold public office, the right to possess any kind of a
20 firearm. And of course, if you're not a citizen, which I have
21 no reason to believe you're not, you would be subject to
22 removal or deportation. I simply have to tell you that. Do
23 you understand those things?

24 DEFT. KLEPADLO: Yes, sir.

25 THE COURT: Okay. In this case the maximum

1 penalty -- there are two counts that you're pleading guilty to,
2 Count 4, false statements in violation of the Clean Water Act,
3 the maximum penalty for that is two years in prison, one year.
4 Supervised release, \$10,000 fine and \$100 special assessment.

5 Also to Count 16, which is tampering with a witness,
6 which is a maximum of 20 years in prison, three years of
7 supervised release, \$250,000 fine and a \$100 special
8 assessment. Do you understand those things?

9 DEFT. KLEPADLO: Yes, sir.

10 THE COURT: You will be required -- also you should
11 be advised you'll be required to give a DNA sample in
12 cooperation with the probation office as a part of this plea.

13 DEFT. KLEPADLO: Okay.

14 THE COURT: So far do you understand the possible
15 consequences of a guilty plea?

16 DEFT. KLEPADLO: Yes, sir.

17 THE COURT: Have you discussed or had an opportunity
18 to discuss the subject of sentencing with Mr. Sheppard?

19 DEFT. KLEPADLO: Yes, sir.

20 THE COURT: All right. For your information the
21 sentencing process involves two things. The Sentencing
22 Guidelines, I'm sure you've talked about those, they are what
23 they say they are. They're advisory, a series of guidelines,
24 guideline sentences depending on what's called an offense level
25 and a criminal history category, you match those two and you

1 get a range of sentence. It's something the judges are
2 supposed to look at in an effort to try to arrive at an
3 appropriate sentence.

4 In addition to that there's a federal statute that
5 sets forth a series of factors that are to be considered by
6 judges in arriving at sentence. They are the nature and
7 circumstances of the offense, your personal history and
8 characteristics, the requirement that the sentence takes into
9 account the seriousness of the offense, promotes respect for
10 the law, provides just punishment.

11 It also requires that the sentence act as a
12 deterrent. It also requires that the sentence protects the
13 public from any future crimes. It also provides that you would
14 be afforded correctional treatment, medical care in furtherance
15 of rehabilitation essentially. And also provides that that --
16 that statute also provides that we as judges try to sentence
17 people who have been found guilty of similar crimes and who
18 have similar records similarly. The quest is for uniformity as
19 much as can occur.

20 And lastly, we have to be satisfied that the sentence
21 is reasonable. Obviously I don't know your sentencing
22 guideline range, and I won't know that until there is a
23 presentence report and any objections to it resolved. So
24 that's essentially the general picture of what goes on in
25 sentencing. Do you have any questions about that?

1 DEFT. KLEPADLO: No, sir.

2 THE COURT: There is no parole in the federal system.
3 And should you be sentenced to prison you will not be released
4 on parole, do you understand that?

5 DEFT. KLEPADLO: Yes, sir.

6 THE COURT: All right. Now I'm going to ask Ms.
7 Olshefski to just briefly outline some of the salient points of
8 the plea agreement.

9 MS. OLSHEFSKI: Yes, your Honor. Paragraph one of
10 the plea agreement indicates that the defendant -- the
11 defendants agree to plead guilty to Counts 4 and 16 of the
12 indictment. Count 4 charges the defendants with a violation of
13 Title 33, United States Code, Section 1319(c)(4), which is
14 false statements in violation of the Clean Water Act. The
15 maximum penalty for that offense is imprisonment for a period
16 of two years, a maximum fine of \$10,000, a maximum term of
17 supervised release of one year, to be determined by the Court,
18 and which shall be served at the conclusion of and in addition
19 to any term of imprisonment, as well as the cost of
20 prosecution, imprisonment, probation or supervised release
21 ordered, the denial of certain federal benefits, and an
22 assessment in the amount of \$100.

23 Count 16 charges the defendants with a violation of
24 Title 18, United States Code, Section 1512(c)(2), which is
25 tampering with a witness. The maximum penalty for that offense

1 is imprisonment for a period of 20 years, a fine of \$250,000, a
2 maximum term of supervised release of three years to be
3 determined by the Court and which shall be served at the
4 conclusion of and/or in addition to any term of imprisonment,
5 as well as the cost of prosecution, imprisonment, probation or
6 supervised release ordered, the denial of certain federal
7 benefits and an assessment in the amount of \$100.

8 At the time the guilty pleas are entered the
9 defendants shall admit to the Court that the defendants are in
10 fact guilty of the offenses charged in Counts 4 and 16. And at
11 the time of sentencing the United States will move for
12 dismissal of any remaining counts in the indictment.

13 Paragraph three of the plea agreement evidences the
14 defendant's understanding that the total maximum penalty -- the
15 total maximum possible sentence for all charges is a
16 combination of penalties described above, and that is 22 years
17 in prison and/or fines totalling \$260,000, three years of
18 supervised release, the costs of prosecution, denial of certain
19 federal benefits and assessments totalling \$200.

20 Paragraph 12 of the plea agreement refers to an
21 appropriate sentence recommendation. At the time of sentencing
22 the United States may make a recommendation that it considers
23 appropriate based upon the nature and circumstances of the case
24 and the defendant's participation in the offense. And
25 specifically reserves the right to recommend a sentence up to

1 and including the maximum sentence of imprisonment and fine
2 allowable, together with the cost of prosecution.

3 Paragraph 13 refers to special conditions of
4 probation or supervised release, which possibly could be
5 imposed upon the defendant, and include the defendant being
6 prohibited from possessing a firearm or other dangerous weapon.
7 The defendant may be required to make restitution if
8 applicable. And the defendant, for example, may be required to
9 pay any fine imposed in accordance with a schedule determined
10 by the Court.

11 And paragraph 17, again, references restitution and
12 evidences the defendant's understanding and his agreement to
13 make full restitution to the extent applicable in accordance
14 with a schedule to be determined by the Court.

15 Paragraph 22 evidences the defendant's understanding
16 that the Court is not a party to and is not bound by this
17 agreement or any recommendations made by the parties. Thus,
18 the Court is free to impose upon the defendants any sentence up
19 to including the maximum sentence of imprisonment for 22 years,
20 a fine of \$260,000, a maximum term of supervised release of up
21 to three years, which shall be served at the conclusion of and
22 in addition to any term of imprisonment, the cost of
23 prosecution, denial of certain federal benefits, and
24 assessments totalling \$200.

25 Paragraph 23 evidences the defendant's understanding

1 that if the Court imposes a sentence with which the defendants
2 are dissatisfied the defendants will not be permitted to
3 withdraw any guilty plea for that reason alone, nor will the
4 defendants be permitted to withdraw any plea should the Court
5 decline to follow any recommendations by any of the parties to
6 this agreement.

7 Paragraph 27 refers to the status of any professional
8 licenses that the defendant might possibly hold at this time,
9 and reads that it is further understood and agreed that the
10 status of any professional license held by the defendants is
11 not protected by this agreement and is a matter solely within
12 the discretion of the appropriate licensing authority.

13 The United States may in its discretion provide to --
14 provide any -- to any such licensing authority any document and
15 information in its possession. This is a plea agreement that
16 has an appeal waiver, and that's found at paragraph 29, and
17 that's an appeal waiver on direct appeal only. And paragraph
18 29 outlines for the defendant certain sections of federal law
19 which would otherwise afford the defendant the right to appeal
20 a judgment of conviction and sentence. However, a material
21 condition of this plea agreement is that the defendant has
22 waived those rights to appeal as outlined in paragraph 29 on
23 direct appeal only.

24 Paragraph 32 indicates that the parties have reached
25 the terms and conditions of this agreement because the parties

1 agree that the terms and condition of this plea agreement meet
2 the ends of justice. And paragraph 34 indicates that the
3 defendant agrees that the defendants have discussed this case
4 and this plea agreement in detail with the defendant's attorney
5 who has advised the defendant of the defendant's constitutional
6 and other trial and appeal rights, the nature of the charges,
7 the elements of the offenses the United States would have to
8 prove at trial, the evidence the United States would present at
9 such trial, possible defenses the defendant might have, the
10 advisory Sentencing Guidelines, and other aspects of
11 sentencing, potential losses of civil rights and privileges and
12 other possible and potential consequences of pleading guilty in
13 this case.

14 The defendants agree that the defendants are
15 satisfied with the legal services and advice provided to them
16 by their attorney, Attorney Sheppard. And your Honor, this is
17 an agreement that has been signed by the Defendant, David D.
18 Klepadlo, individually, and David D. Klepadlo as president and
19 authorized representative of David D. Klepadlo and Associates,
20 Incorporated. It's signed by their counsel, Attorney Mark
21 Sheppard and by myself on behalf of the United States.

22 THE COURT: Thank you. Regarding the appeal waiver,
23 I normally ask counsel about the appeal waiver and the quid pro
24 quo that you feel warranted your surrendering that on behalf of
25 Mr. Klepadlo.

1 MR. SHEPPARD: Yes, your Honor. Ms. Olshefski has
2 properly stated the terms of the plea agreement. I've
3 explained to Mr. Klepadlo his appellate rights and his
4 agreement to waive in return for the agreement by the
5 government to withdraw the remaining charges, as well as the
6 other terms and conditions of the plea agreement. And I am
7 satisfied that he knowingly has understood those and is willing
8 to waive those rights.

9 I've also -- I'm sorry, sir. I've also explained
10 that if there is a claim of my own ineffectiveness at some
11 point in a collateral attack that will not in fact be waived by
12 the plea agreement.

13 THE COURT: Now, Mr. Klepadlo, you understand the
14 waiver? You're waiving your right to appeal a conviction and
15 the sentence?

16 DEFT. KLEPADLO: Yes, sir.

17 THE COURT: You understand that? You're okay with
18 that and the explanation given by Mr. Sheppard?

19 DEFT. KLEPADLO: Yes, sir.

20 THE COURT: All right. Let the record show that I'm
21 satisfied that the appeal waiver is both knowing and voluntary.
22 I'm going to ask you a lengthy question now about your right to
23 a trial. You have a right to plead not guilty in this case, in
24 which case you'd have a right to a trial before a jury of 12 in
25 a courtroom such as this. I would preside over that trial. At

1 that trial you would be presumed to be innocent. And in order
2 for you to be guilty the government would have to prove your
3 guilt beyond a reasonable doubt. You have the right to the
4 assistance of counsel, Mr. Sheppard, in your defense, a right
5 to see and hear all of the witnesses and have them
6 cross-examined by your counsel in your defense.

7 You'd have the right on your own part not to testify
8 or put on any -- right -- you have the right on your own part
9 not to testify unless you voluntarily elected to do so. You
10 also have the right to the issuance of subpoenas to force the
11 attendance of witnesses to testify on your behalf. Do you
12 understand those things?

13 DEFT. KLEPADLO: Yes, sir.

14 THE COURT: All right. You should further understand
15 that should you decide not to testify or put on any evidence
16 these facts cannot be used against you. Meaning, you have a
17 right to remain silent at your trial. The jury is instructed
18 your silence does not equal guilt. And they're instructed that
19 that's the case.

20 Likewise, because you're protected by the presumption
21 of innocence, you don't have to prove your innocence, meaning
22 you don't have to present any evidence of your innocence. The
23 jury is also instructed on that, that your failure to present
24 evidence is not to be taken by them as evidence of guilt. You
25 are protected by the presumption of innocence and they are so

1 advised.

2 And in the event the government does not overcome the
3 presumption that you should be found not guilty. That is
4 essentially what I want to convey to you, do you understand
5 that?

6 DEFT. KLEPADLO: Yes, sir.

7 THE COURT: Do you further understand that should I
8 accept your plea today, there will be no trial and you will
9 have waived or given up your right to a trial, as well as all
10 the rights associated with a trial that I just described to
11 you. Do you understand that?

12 DEFT. KLEPADLO: Yes, sir.

13 THE COURT: All right. I'm going to now read you the
14 elements of the offenses in these counts. First Count 4, these
15 are the elements, and I'm going to ask you to listen carefully
16 because I'm going to ask you if you are guilty of these
17 elements.

18 First, that you knowingly made a false material
19 statement, representation or certification in any application,
20 record, report, plan or other document. And second, that the
21 application, record, report, plan, or other document was filed
22 or required to be maintained under the Clean Water Act. Are
23 you guilty of each of those?

24 DEFT. KLEPADLO: Yes, sir.

25 THE COURT: That's Count 4. Count 16. First, that

1 you obstructed, influenced, and/or impeded any official
2 proceeding, and second, that you acted corruptly. Those are
3 the elements of that offense. Are you guilty of each of those?

4 DEFT. KLEPADLO: (Nodded.)

5 MR. SHEPPARD: Yes?

6 DEFT. KLEPADLO: Yes, sir.

7 THE COURT: All right. Now I'm going to ask Ms.
8 Olshefski to briefly outline in summary fashion the facts that
9 would meet these or satisfy these elements. Again, I'm going
10 to ask you to listen carefully because I'm going to ask you if
11 you agree with what she said.

12 MS. OLSHEFSKI: Your Honor, the Court should be aware
13 that the offense conduct that the government is going to place
14 on the record was reviewed by Attorney Sheppard, as well as the
15 defendant, these facts I'm going to place on the record. If
16 this case were to proceed to trial the government would
17 establish beyond a reasonable doubt that at all times relevant
18 to the defendant's conduct the Defendant, David D. Klepadlo and
19 Associates, was a Pennsylvania business corporation created in
20 1989 with articles of incorporation dated March 21, 1989.

21 DKA, David D. Klepadlo and Associates, was a
22 multi-disciplined civil and environmental engineering firm with
23 a business address located in Clarks Summit, Pennsylvania,
24 within the Middle District of Pennsylvania. David D. Klepadlo
25 was the owner/operator and president of DKA. Klepadlo was

1 certified by the Commonwealth of Pennsylvania as a waste water
2 treatment system operator.

3 The conduct relevant to the instant offense occurred
4 at both the Greenfield Township Sewer Authority or GTSA, as
5 well as the Benton/Nicholson Sewer Authority or BNSA, and is
6 similar; that is, the defendant's failure to conduct required
7 compliance monitoring and sampling in accordance with permits
8 and submitting false sampling results in monthly discharge
9 monitoring reports -- those discharge monitoring reports are
10 referred to as DMRs -- to the Pennsylvania Department of
11 Environmental Protection, Pennsylvania DEP.

12 If this case were to proceed to trial the government
13 would prove beyond a reasonable doubt the defendant's failure
14 to properly operate and maintain the treatment plants in
15 accordance with the National Pollution Discharge Elimination
16 Systems, which is NPDES, that is the name of the permits that
17 are issued.

18 Specifically, the defendant submitted false sampling
19 results in monthly DMRs to the Pennsylvania DEP. The NPDES
20 permits required a submission of monthly DMRs recording the
21 sampling results representative of the monthly discharges and
22 conducted in accordance with the permit sampling methods.

23 David D. Klepadlo submitted the monthly DMRs to the
24 Pennsylvania Department of Environmental Protection on behalf
25 of David D. Klepadlo and Associates, Inc., from December 18,

1 2013, until June 17, 2014, for both the Greenfield Township
2 Sewer Authority and the Benton/Nicholson Sewer Authority.

3 It was in or about April 2013 when the Pennsylvania
4 DEP field inspectors had concerns about the proper operation of
5 facilities contracted with the defendants. For example, on
6 random visits to one or more of the facilities inspectors
7 rarely noticed the operator of the facility at the location.
8 And during the winter months inspectors would drive to one or
9 more of the facilities and fail to see tracks in the snow.

10 Pennsylvania DEP inspectors also observed growth
11 around discharge pipes that caused concerns and routinely
12 received complaints about foul odors emanating from one of the
13 facilities.

14 During a routine inspection on or about April 24,
15 2013, at the Greenfield Township Sewer Authority Pennsylvania
16 DEP field inspectors learned from the Defendant, David D.
17 Klepadlo, that required daily sampling of pollutants at both
18 the GTSA and the BNSA was only being done a few days a week and
19 that test results for other days were only estimated results.

20 In violation of the Pennsylvania DEP permits the
21 estimated results were the results reported on required monthly
22 DMRs submitted to the Pennsylvania DEP by the defendants for
23 both the GTSA and BNSA. Inspectors learned that this was an
24 ongoing, continuous and repetitive course of conduct in terms
25 of how David D. Klepadlo operated the facilities he managed.

1 Pennsylvania DEP interviewed the owner and operator
2 of DKA, that being the Defendant David D. Klepadlo, on April
3 24, 2013, and those admissions would be presented to the jury.

4 David D. Klepadlo acknowledged that the GTSA permit
5 required daily monitoring for pollutants, including pH, but
6 stated that he and/or his employee only visited the plant two
7 or three times per week. David D. Klepadlo stated that on days
8 when no one visited the facilities the sampling results were
9 estimated, because there was no reason to test daily, since the
10 results did not change much on a daily basis.

11 David D. Klepadlo stated that he did not care what
12 the permit required, that would be testified to by agents.
13 David D. Klepadlo admitted that he submitted the estimated
14 daily results to the Pennsylvania DEP on DMRs, and David D.
15 Klepadlo stated that this was a practice he had been following
16 for 20-plus years no matter what the permits required.

17 Based upon the above concerns and others, pole
18 cameras were installed at both the GTSA and BNSA for a period
19 of six months, and the results of those pole cameras would be
20 presented to the jury. And those six months covered December
21 of 2013 through June of 2014.

22 The video surveillance at both GTSA and BNSA revealed
23 that on most days between December '13 and June of 2014 no one
24 showed up at either of the GTSA or the BNSA to perform required
25 daily testing of pollutants or to take weekly required

1 composite testing at either facility.

2 During the 116 days of clear video surveillance from
3 December 18, 2013 until June 17, 2014, an operator visited the
4 GTSA facility on only 17 occasions and collected daily grab
5 samples on only 8 of the 17 days. On the DMRs submitted by DKA
6 it was reported that samples were collected every day. Between
7 2013 and June of 2014 David D. Klepadlo submitted monthly DMRs
8 to the Pennsylvania Department of Environmental Protection
9 representing and certifying that all weekly and daily testing
10 of pollutants as required by the GTSA permit were performed and
11 the results were accurately recorded.

12 During a 146 clear days of video surveillance at the
13 BNSA, the Benton/Nicholson Sewer Authority, someone showed up
14 at the facility on only 66 occasions. For the majority of
15 those days no one monitored the outfall or the treatment
16 processes. On 80 days an operator failed to show up resulting
17 in the production of false reports, DMRs, being submitted by
18 the defendant for those months to the Pennsylvania Department
19 of Environmental Protection.

20 Specifically, as to Count 4 of the indictment on or
21 about January 21, 2014, the defendants knowingly caused a false
22 material statement, representation and certification to be made
23 in a record, report, and other document required to be
24 maintained under the Clean Water Act and the regulations
25 promulgated thereunder; that is, the defendants knowingly

1 caused a DMR report that contained false test results to be
2 filed and submitted to the Pennsylvania Department of
3 Environmental Protection regarding the Greenfield Township
4 Sewer Authority.

5 With respect to Count 16, tampering with a witness,
6 the defendant's employee, an individual by the name of Joseph
7 Sheposh, cooperated with investigators and wore a recording
8 device on multiple occasions to record conversations between
9 himself and the Defendant David Klepadlo. During recorded
10 conversations, including August 31 of 2015, when the subject of
11 this investigation came up, David D. Klepadlo instructed
12 Sheposh to feign ignorance when questioned by the FBI.

13 David D. Klepadlo advised Sheposh to tell
14 investigators that he was instructed by a then retired DEP
15 inspector that what they were doing was okay. For example,
16 David D. Klepadlo was recorded telling Sheposh to point
17 everything to Lenny. Lenny is retired and EPA or the FBI won't
18 involve him. David D. Klepadlo instructed Sheposh just tell
19 them, Yeah, I only did what Lenny told me to do.

20 David D. Klepadlo told Sheposh to repeatedly say I
21 don't recall. David D. Klepadlo further stated, We'll just say
22 we don't recall and do the Hillary Clinton thing, you don't
23 remember, you don't recall to the best of your ability, that's
24 all. Those are words of the defendant that will be played for
25 the jury.

1 That's a summary, Your Honor, of what the
2 government's evidence would be.

3 THE COURT: All right. Mr. Klepadlo, are those
4 things true?

5 MR. SHEPPARD: Your Honor, if I may, just as Ms.
6 Olshefski said, this has been provided to us and we reviewed
7 it. They are materially accurate. There's a couple of
8 clarifications, however, which I think for the record ought to
9 be made. Mr. Klepadlo is a responsible officer under the Clean
10 Water Act and is responsible and did cause to be made the
11 filing of a false statement charged in the indictment, and that
12 is what he's pleading guilty to.

13 Just for the record, his employee, Mr. Sheposh, was
14 also a certified operator, sewage treatment plant operator, who
15 in fact did sign the DMR as a certified operator, but Mr.
16 Klepadlo is the responsible officer. David Klepadlo Associates
17 did in fact submit and cause to be submit that false statement,
18 which is why he's pleading guilty here today. I just wanted
19 that accurately on the record.

20 MS. OLSHEFSKI: I need to follow that up, your Honor,
21 by indicating that the defendant's own admissions indicate that
22 he knew full well that the required testing was not being done,
23 and he didn't care what the permit said and he admitted that.

24 MR. SHEPPARD: Your Honor, that is -- that is
25 accurate that my client admitted long before these charges were

1 filed that they did not test pH every day and that he did not
2 believe that it was necessary to do so. He admitted that a
3 year before this whole surveillance started. So, yes, he
4 admits that and agrees with that.

5 THE COURT: So let me understand. The false
6 statements were made and you knew they were false?

7 DEFT. KLEPADLO: Yes, sir.

8 THE COURT: Is that what we're talking about?

9 MS. OLSHEFSKI: Yes, your Honor.

10 MR. SHEPPARD: Yes, your Honor.

11 THE COURT: All right, fine.

12 MR. SHEPPARD: I just wanted the record to be clear
13 in terms of the signing of certification because there was
14 another treatment --

15 THE COURT: Okay, move on.

16 MR. SHEPPARD: Thank you, sir.

17 THE COURT: Yes. I'm going to ask you now Mr.
18 Klepadlo how you plead to the charge -- charges contained in
19 Count 4 and Count 16 of the indictment, guilty or not guilty?

20 DEFT. KLEPADLO: Guilty, your Honor.

21 THE COURT: And on behalf of the corporation, guilty
22 or not guilty?

23 MR. SHEPPARD: Your Honor, if may, I think the charge
24 with regard to the corporation is simply Count 4, not both
25 counts.

1 THE COURT: Oh, okay. I'm sorry.

2 MR. SHEPPARD: I wanted to make that clear.

3 THE COURT: That's a good point. Thank you. Count 4
4 as to the corporation.

5 DEFT. KLEPADLO: Yes, sir.

6 THE COURT: It's my finding in the case of the United
7 States versus David D. Klepadlo and David D. Klepadlo and
8 Associates, Inc., that both defendants are fully competent and
9 capable of entering an informed plea, and that each is aware of
10 the nature of the charges and the consequences of the plea.

11 The plea of guilty on behalf of each is knowing and
12 voluntary and supported by an independent basis in fact
13 containing each of the essential elements of the offense in
14 question. The plea is therefore accepted as to Counts 4 and 16
15 as to David D. Klepadlo and as to Count 4 for David D. Klepadlo
16 and Associates, Inc. And each defendant is adjudged guilty of
17 those particular offenses.

18 You heard me mention a presentence report. There
19 will be one prepared. You will receive a copy Mr. Klepadlo, so
20 will your counsel, Ms. Olshefski will get a copy. You'll have
21 a chance to review it. If there are any contents you wish to
22 object to you will do so and they will be heard and decided at
23 the time of sentencing. Ms. Olshefski has the same
24 opportunity.

25 If there are any objections, as I said, they'll be

1 heard at the time of sentence. At which time, of course, after
2 they're resolved you'll have a chance to speak on your own
3 behalf, Mr. Sheppard has a chance to speak for you, you can
4 present anything to me by way of witness, letter, anything you
5 think will assist me in arriving at an appropriate sentence in
6 this case. Any questions about any of that?

7 DEFT. KLEPADLO: No, sir.

8 THE COURT: All right. The presentence report will
9 be disclosed February 13, 2019, sentencing will take place
10 April 12, 2019, at 11 a.m.

11 MS. OLSHEFSKI: Your Honor, I have a written document
12 titled Defendant's Acknowledgment of Rights Waived by Guilty
13 Plea. May I colloquy the defendant on this?

14 THE COURT: Sure, you may.

15 MS. OLSHEFSKI: Mr. Klepadlo, I'm showing you a
16 five-page document that is titled Defendant's Acknowledgment of
17 Rights Waived by Guilty Plea. Have you seen this document?

18 DEFT. KLEPADLO: I saw it about five minutes before
19 we came up here. Go ahead.

20 MS. OLSHEFSKI: Did you have an opportunity to go
21 over this with your attorney?

22 DEFT. KLEPADLO: Yes, I did.

23 MS. OLSHEFSKI: And on the last page above the
24 printed words David D. Klepadlo, individually, and David D.
25 Klepadlo as president and authorized representative of David D.

1 Klepadlo and Associates, Inc., there is a written name. Whose
2 name is that?

3 DEFT. KLEPADLO: It's mine.

4 MS. OLSHEFSKI: And did you sign that today?

5 DEFT. KLEPADLO: Yes, I did.

6 MS. OLSHEFSKI: And did you sign it in the presence
7 of your attorney?

8 DEFT. KLEPADLO: Yes, I did.

9 MS. OLSHEFSKI: Now, sir, before you signed this did
10 your attorney go over this document with you?

11 DEFT. KLEPADLO: Yes, he did.

12 MS. OLSHEFSKI: So you understand this, this is the
13 written version of the constitutional rights that you have
14 waived by virtue of your guilty plea here today?

15 DEFT. KLEPADLO: Yes.

16 MS. OLSHEFSKI: Do you have any questions about this
17 document?

18 DEFT. KLEPADLO: No.

19 MS. OLSHEFSKI: Your Honor, I ask that this become
20 part of the record.

21 THE COURT: Fine.

22 MR. SHEPPARD: No objection, your Honor.

23 THE COURT: Now, Mr. Klepadlo -- is there any reason
24 to not let him out on his own recognizance?

25 MS. OLSHEFSKI: No, your Honor. He understands that

1 he is not permitted to have any contact with any of the
2 government witnesses, and as long as he understands that his
3 release continues.

4 THE COURT: Do you understand that?

5 DEFT. KLEPADLO: Yes, sir.

6 THE COURT: All right.

7 MR. SHEPPARD: Thank you, your Honor.

8 THE COURT: Thank you.

9 MS. OLSHEFSKI: Thank you, your Honor.

10 (11:52 a.m., court adjourned.)

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REPORTER'S CERTIFICATE

I, DIANA L. GILBRIDE, Official Court Reporter for the United States District Court for the Middle District of Pennsylvania, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a true and correct transcript of the within-mentioned proceedings had in the above-mentioned and numbered cause on the date or dates hereinbefore set forth; and I do further certify that the foregoing transcript has been prepared by me or under my supervision.

/s/ Diana L. Gilbride
Diana L. Gilbride, RMR, FCRR
Official Court Reporter

REPORTED BY:

DIANA L. GILBRIDE, RPR
Official Court Reporter
United States District Court
Middle District of Pennsylvania
P.O. Box G
Scranton, PA 18501-0090

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